

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

Roland Mitchell,

Plaintiff,

V.

Midland Credit Management, Inc.,

Defendant.

Case No.

VERIFIED COMPLAINT

Roland Mitchell (Plaintiff), by his attorneys, Krohn & Moss, Ltd., alleges the following against Midland Credit Management, Inc. (Defendant):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act (FDCPA),
15 U.S.C. 1692, *et seq.*

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy.”
3. Because Defendant conducts business in Massachusetts, personal jurisdiction is established.
4. Venue is proper pursuant to 28 U.S.C. 1391(b)(2).

PARTIES

5. Plaintiff is a natural person residing in Millbury, Worcester County, Massachusetts.
6. Plaintiff is a consumer as that term is defined by 15 U.S.C. 1692a(3).
7. Defendant is a debt collector as that term is defined by 15 U.S.C. 1692a(6).
8. Defendant is a collection agency with a main business office in San Diego, California.
9. Defendant is a collection law firm that in the ordinary course of business, regularly, on behalf of itself or others, engages in debt collection.

FACTUAL ALLEGATIONS

10. Defendant constantly and continuously calls Plaintiff seeking and demanding payment for an alleged debt for a Chase account owed by someone named “David Mitchell.”
11. Defendant has been calling Plaintiff since April 2011, approximately two (2) to three (3) times a day (See Exhibit A).
12. Defendant calls Plaintiff on his cellular telephone: 508-798-8018 from telephone numbers that show as “Unavailable” on Plaintiff’s caller ID.
13. When Plaintiff picks up the phone, Defendant hangs up.
14. On April 11, and April 25, 2011 Plaintiff was able to speak to one of Defendant’s representatives and informed Defendant’s agents that he is not the person

Defendant is trying to reach.

15. Despite this information, Defendant continued to call Plaintiff after April 11, 2011.

COUNT I
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

16. Defendant violated the FDCPA based on the following:

- a. Defendant violated §1692d of the FDCPA by engaging in conduct the natural consequence of which is to harass, oppress, or abuse Plaintiff in connection with the collection of a debt.
- b. Defendant violated §1692d(5) of the FDCPA by causing a telephone to ring or engaging Plaintiff in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass Plaintiff.

Wherefore, Plaintiff, Roland Mitchell, respectfully requests judgment be entered against Defendant, Midland Credit Management, Inc. for the following:

17. Statutory damages of \$1,000.00 pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k.
18. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k.
19. Any other relief that this Honorable Court deems appropriate.

DEMAND FOR JURY TRIAL

Please take notice that Plaintiff, Roland Mitchell, demands a jury trial in this cause of action.

Dated: May 25, 2011

RESPECTFULLY SUBMITTED,

By: ___/s/David R. Jackowitz_____

David R. Jackowitz, B.B.O. No. 567279
Shaevel & Krems, LLP
141 Tremont Street
Boston, MA 02111
Telephone: (617) 556-0244
Fax: (617) 556-0284
djackowitz@shaevelkrems.com

Attorneys for Plaintiff,
Roland Mitchell

VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF MASSACHUSETTS

Plaintiff, ROLAND MITCHELL, states the following:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, ROLAND MITCHELL, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

5/27/2011
Date


ROLAND MITCHELL

EXHIBIT A

Call log

Here is the list of dates and times that Midland is calling asking for David Mitchell. I will **highlight** the times when they answered which is only twice. The other times they just hang up with no messages.

4-9-11 9:28a, 1138a, 435p
4-10 939a
4-11 **152p**, 609p
4-12 942a, 1257p
4-13 859a, 1252p
4-15 1010a, 1128a
4-17 230p, 811p
4-18 851a, 1051a
4-19 952a, 428p
4-20 343p, 633p
4-21 633p
4-22 609p
4-24 1055a, 415p
4-25 **141p**

Sincerely

Roland